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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,004	12/29/2000	Mun Keung Leung	1190-2111	7689

7590 06/18/2004

Navarro IP Law Group  
801 E. Campbell Rd. Suite 655  
Richardson, TX 75081

EXAMINER

PHAN, TRI H

ART UNIT PAPER NUMBER

2661

DATE MAILED: 06/18/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/752,004

Applicant(s)

LEUNG, MUN KEUNG

Examiner

Tri H. Phan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities: Applicant is respectfully suggested to be consistent in using terminologies, for example, "... a method of handling ... comprising the steps:

a VoIP device reserving...

transmitting ...

the VoIP device reserving .... ”

wherein a/the VoIP device is not a step of the handling method. The claim language is suggested to change to -- reserving ... -- for clarity. Appropriate correction is required.

### **Claim Rejections - 35 USC § 112**

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2, 10 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In regard to claim 2 , line 2, the phrase “greater than 20,000” would renders the claim indefinite without range or limit; and the resulting claim does not clearly set forth the metes and bounds of the patent protection desired.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 17-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

5. Claims 17-24 are rejected under 35 U.S.C. 101 because the claimed recitation of “a program product” for handling emergency VoIP calls with logic means, which is not executed by a computer system, such as a microprocessor. See for example *MPEP*, Section 2105-1 and <http://www.uspto.gov/web/offices/com/hearings/software/analysis/computer.html> under Section Non-Statutory Subject Matter of the claimed invention complies with 35 U.S.C. § 101.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3-9, 11-17 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Schuster et al.** (U.S.6,625,119) in view of **Gai et al.** (U.S.6,167,445).

- In regard to claims 1, 9 and 17, **Schuster** discloses in Figs. 1-2 and in the respective portions of the specification about the program (“*logic means*”; For example see col. 10, lines 9-20), system and method for facilitating increasing call capacity of the gateway in the Internet telephony system (“*voice over internet protocol calls*”; For example see col. 6, lines 24-36), when connected in the LAN environment (“*LAN*”; For example see Fig. 1; col. 7, lines 20-45) and faced with the state of emergency (“*emergency call*”; For example see col. 10, lines 9-30). **Schuster** also discloses that the management system of the aggregation point, e.g. gateway or router, reduces their output load (For example see col. 10, lines 34-41) when the predetermined threshold level exceeds, e.g. the emergency situation exists (For example see col. 11, lines 7-28) or reaches the maximum input/output port capacities (“*determining the port number falls within range*”; For example see col. 3, line 49 through col. 4, line 4), by changing the rate, decreasing bandwidth per media stream or switching to different encoder in order to support the increased call capacity in the emergency mode (“*reserving extra resources for handling call*”; For example see col. 5, lines 29-58; col. 11, lines 29-41; col. 12, lines 43-52). **Schuster** fails to explicitly disclose about the method for transmitting the emergency call “*within the VLAN using the port number in the range*”. However, such implementation is known in the art.

For example, **Gai** discloses in Figs. 3-7F and in the respective portions of the specification about the application program (“*logic means*”; For example see col. 14, lines 40-56), system and method for defining and implementing high-level quality of service policies in the computer network by using the policy server at the intermediate device, e.g. router or switch, operating at layer 2 and 3 corresponding to the IP network and Ethernet (“*VLAN*”), wherein the

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intermediate device provides different queues per port on the basis of user priority value (*“reserving the range of specific port numbers”*; For example see col. 1, line 65 through col. 2, line 46) as traffic types identifying by differentiated service code point (For example see col. 11, lines 31-43) for different times or emergency situations (*“for use during emergencies”*; For example see col. 12, lines 19-24).

Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention was made to combine the invention as taught by **Gai**, by implement the intermediate device, which uses in the VLAN environment into the LAN environment as taught by **Schuster**, to provide the reserving specific port numbers within range, which reserves for different times or emergency situations as specified in **Gai**: col. 12, lines 19-24.

- Regarding claims 3-4, 11-12 and 19-20, the combination of **Schuster** and **Gai** further discloses about the user priority values from ‘1’ to ‘7’, which is the highest value, e.g. ‘must get there’, as specified in col. 1, line 66 through col. 2, line 57, wherein it is obvious that the user priority value can be changed depending on the congestion control and service level agreements as disclosed in col. 4, line 13 through col. 5, line 8.

Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention was made to combine the invention as taught by **Gai**, by implement the intermediate device, which uses in the VLAN environment into the LAN environment as taught by **Schuster**, to provide different port for different values of user priorities from ‘1’ to ‘7’, which reserves for different times or emergency situations as specified in **Gai**: col. 12, lines 19-24.

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• - In regard to claims 5-8, 13-16 and 21-24, **Schuster** further discloses about the emergency as earthquake, hurricane, ...; wherein other situations of emergency may be a matter of design choice as disclosed in col. 10, lines 21-33.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Needham et al.** (U.S.6,711,247), **Schuster et al.** (U.S.6,650,619) and **Dailey** (U.S.6,466,651) are all cited to show devices and methods for improving the emergency call in the telecommunication architectures, which are considered pertinent to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri H. Phan, whose telephone number is (703) 305-7444. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms can be reached on (703) 305-4703.

**Any response to this action should be mailed to:**

**Commissioner of Patents and Trademarks**

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314**


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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA, Sixth Floor.

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the Technology Center 2600 Customer Service Office, whose telephone  
number is (703) 305-3900.



Tri H. Phan  
June 14, 2004

  
DONG TON  
Primary Examiner